

Title 33
ENVIRONMENTAL QUALITY
Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental QualityCHazardous Waste

Chapter 4. Requirements for Commercial Treatment, Storage, and Disposal Facility Permits

' 401. Applicability

A. This Chapter applies to proposed, nonexistent, commercial hazardous waste treatment, storage, and disposal (TSD) facilities. Existing facilities seeking major modification, permit renewal, conversion of noncommercial status to commercial, or interim permit to final permit status are not subject to the requirements in this Chapter. All other requirements in LAC 33:V for hazardous waste facilities also apply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2178.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26.

' 403. Definitions

A. The definitions used in this Chapter are intended to apply to commercial hazardous waste facilities. Terms not defined herein shall have the meanings given them in LAC 33:V.109.

Aquifer Recharge Zone—a land area in which water reaches the zone of saturation from surface infiltration (e.g., an area where rainwater soaks through the earth to reach an aquifer).

Day Care Center—any place or facility operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and guidance of seven or more children not related to the caregiver and unaccompanied by parent or guardian on a regular basis for at least 20 hours in a continuous seven-day week.

Entertainment Facility—any place where the primary purpose is to amuse, please, or provide hospitality to patrons or guests.

Food Storage Area—any facility or structure used to store or contain any foodstuff for human or animal consumption.

Hospital—a medical institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor.

Nursing Home—a private home, institution, building, residence, or other place, serving two or more persons who are not related by blood or marriage to the operator, whether operated for profit or not, and including those places operated by a political subdivision of the state of Louisiana, which undertakes, through its ownership or management, to provide maintenance, personal care, or nursing for persons who, by reason of illness or physical infirmity or age, are unable to properly care for themselves.

Prison—a state or federal facility of confinement for convicted criminals, especially felons.

Public Building—a building or appurtenance to a building that is built in whole or in part or leased with public monies. Examples include, but are not limited to, federal, state, or parish office buildings, courthouses, post offices, custom houses, public record centers, public libraries, public schools, appraisers' stores, and transportation facilities that accommodate traveling passengers.

Residential Area—those areas where people live or reside including the property on which housing is located, as well as playgrounds, roadways, sidewalks, parks, and other similar areas within a residential community.

School—any profit or nonprofit, public or private, day, night, or residential school that provides elementary, secondary, college, or post-graduate education as determined under state law or any school of any agency of the United States.

Wetland—open water areas or areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wildlife Management Area—any area set aside, maintained, and supervised by the Louisiana Department of Wildlife and Fisheries for the purpose of managing and harvesting wild birds, wild quadrupeds, fish, and other aquatic life under controlled conditions to afford maximum hunting and fishing opportunity.

Wildlife Preserve—any area set aside and designated by the Louisiana Department of Wildlife and Fisheries as a refuge on which wild birds and animals are protected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2178.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26.

' 405. Requirements for Commercial TSD Facilities

A. Secretary's Site Assessment and Report

1. The secretary shall assess the impact of the location of a commercial hazardous waste treatment, storage, or disposal facility on the citizens of the surrounding area, the local

infrastructure, and the environment. The secretary shall issue a site assessment report summarizing his findings.

2. The site assessment shall be based upon information in the record including, but not limited to, information required by the regulations to be submitted by the permit applicant. Information regarding the topics listed under "Information Required" in Table 1 identifies and summarizes appropriate information for the site assessment. The "Regulatory Citation" section of the table identifies some of the regulatory requirements to submit information in the part II hazardous waste permit application.

3. In addition to all other requirements, the permit applicant shall submit a stand-alone document entitled "Commercial Siting Assessment Report," certified in accordance with LAC 33:V.513, that addresses the siting and location issues. In addition to the information otherwise required by the regulations to be submitted as part of the permit application, the applicant's report shall provide sufficient information to address the topics in Table 1. The applicant shall expand these issues or elaborate its response as may be appropriate for some types of TSD facilities. If at any time during the application review process the "Commercial Siting Assessment Report" portion of the application is found, by the department, to contain technical deficiencies, the permit applicant shall submit an updated version of the report.

Table 1 Statutory Requirements			
Item	Statutory Citation [All found in R.S. 30:2178]	Information Required	Regulatory Citation [All found in LAC 33:V]
<u>1¹</u>	<u>A</u>	<u>Roads and transportation</u>	' 517.K ' 517.T.6.e ' 1503.C.1 ' 1513
<u>2¹</u>	<u>A</u>	<u>Schools</u>	' 517.B.5 ' 517.T.6.a
<u>3¹</u>	<u>A</u>	<u>Medical institutions</u>	' 517.B.5 ' 1503.C.2 ' 1513
<u>4¹</u>	<u>A</u>	<u>Police and fire departments</u>	' 1503.C.2 ' 1513
<u>5²</u>	<u>B.(2)(a)(i)</u>	<u>Wetlands</u>	' 517.T.5.a ' 1503.B.6
<u>6²</u>	<u>B.(2)(a)(ii)</u>	<u>Wildlife management area or wildlife preserve</u>	' 517.T.5.a ' 1503.B.6 ' 3307.B.1.h ' 3307.B.2.i

<u>7²</u>	<u>B.(2)(a)(iii)</u>	<u>Aquifer recharge zone</u>	<u>' 3307.B.2</u>
<u>8²</u>	<u>B.(2)(b)(i)</u>	<u>Schools or day care centers</u>	<u>' 517.B.5</u> <u>' 517.T.6.a</u>
<u>9²</u>	<u>B.(2)(b)(ii)</u>	<u>Hospitals or nursing homes</u>	<u>' 517.B.5</u> <u>' 517.T.6.a</u>
<u>10²</u>	<u>B.(2)(b)(iii)</u>	<u>Food storage area</u>	<u>' 517.B.5</u> <u>' 2703.I</u> <u>' 2709</u> <u>' 3203A.9</u>
<u>11²</u>	<u>B.(2)(b)(iv)</u>	<u>Public buildings or entertainment facilities</u>	<u>' 517.B.5</u>
<u>12²</u>	<u>B.(2)(b)(v)</u>	<u>Residential area</u>	<u>' 517.B.5</u> <u>' 517.T.6.a</u>
<u>13²</u>	<u>B.(2)(b)(vi)</u>	<u>Prisons</u>	<u>' 517.B.5</u> <u>' 517.T.6.a</u>
<u>14^{2,3}</u>	<u>B.(2)(b)(vii)</u>	<u>Number and density of existing hazardous and solid waste disposal facilities and inactive and abandoned hazardous waste sites</u>	<u>' 515.A.15</u>
<u>15^{2,3}</u>	<u>B.(2)(b)(viii)</u>	<u>Number and density of industries that discharge any hazardous substances</u>	<u>' 515.A.15</u>
<u>16⁴</u>	<u>B.(2)(b)(ix)</u>	<u>Existing community health problem</u>	<u>' 3203.A.8</u> <u>' 3203.B.10</u> <u>' 3203.C.6</u>
<u>17⁵</u>	<u>B.(2)(c)</u>	<u>Impact on economic development</u>	<u>' 517.T.6.c</u>

¹ Items 1 - 4 denote issues that may also be addressed through the local governmental subdivision Infrastructure Assessment Report¹; however, the applicant must respond in sufficient detail to assist local government with the preparation of this report.

² The applicant's responses to Items 5 - 15 must include an aerial photograph clearly identifying all required information as of the date of the submittal. The aerial photograph must extend two miles beyond the property line at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). The photograph date, scale, and orientation (north arrow) must be clearly identified on it.

³ The applicant's responses to Items 14 - 15 must include, at a minimum, name, address, facility type (e.g., hazardous waste disposal facility, solid waste disposal facility, inactive and abandoned waste site, industrial code), waste/substance descriptions, type(s) of discharge permit(s), source of information, and documentation of the extent of the applicant's efforts to identify such facilities. Applicant must also discuss density of existing facilities in the two-mile area and make comparisons as appropriate.

⁴ The applicant's response to Item 16 must be answered in sufficient detail to assist the department in making a site assessment determination. The applicant must identify any existing community health problems that may be aggravated by the operation of a commercial hazardous waste disposal facility and include documentation of the extent of the applicant's efforts to identify such problems.

⁵ The applicant's response to Item 17 must identify all potential positive and negative impacts on economic development and include documentation of the extent of the applicant's efforts to identify such impacts.

B. Specific Site Requirements for Commercial Facilities

1. Proximity and Location of Waste Management Units

a. No waste management unit shall be located within 200 feet of an environmentally sensitive area including, but not limited to:

- i. a wetland;
- ii. a wildlife management area or preserve; or
- iii. an aquifer recharge zone.

b. No waste management unit shall be located within 200 feet of any area that may result in an undue risk to human health including, but not limited to:

- i. a school or day care center;
- ii. a hospital or nursing home;
- iii. a facility or structure used to store or contain foodstuffs for human or animal consumption;
- iv. a public building or entertainment facility;
- v. a residential area;
- vi. a prison;
- vii. other hazardous waste disposal facilities, solid waste disposal facilities, and inactive and abandoned hazardous waste sites;
- viii. other industrial facilities that discharge hazardous or toxic substances into the air or water; or
- ix. a preexisting community health problem that may be aggravated by the operation of a commercial hazardous waste disposal facility.

c. No waste management unit shall be located in such a manner so as to preclude the further economic development of the area.

2. The administrative authority may approve, on a case-by-case basis, an alternative to the requirements in Subsection B.1.a. or b of this Section if the applicant can affirmatively demonstrate that as a result of site-specific circumstances, the location of the proposed waste management unit will not adversely impact an environmentally sensitive area, impose an undue risk to human health, or preclude further economic development of the area.

3. The siting assessment, as determined by this Section, does not preclude any requirements the permit applicant must meet in order to satisfy local zoning ordinances in place at the time the application is submitted to the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2178.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26.

' 407. Guidelines for the Infrastructure Assessment Report Prepared by Local Government

A. The purpose of the Infrastructure Assessment Report shall be to adequately assess the capability of the local communities to effectively manage and monitor the ongoing operations of the proposed commercial facility and to respond to emergencies that may potentially threaten the health, safety, or welfare of the communities or any of their inhabitants.

B. The secretary shall submit a written request to the appropriate local governmental representative for a report detailing the impact of the proposed facility on the local infrastructure including, but not limited to, roads and transportation systems, schools, medical institutions, police and fire departments, economic development, and such matters as the local government may determine will be impacted by the facility. A copy of the applicant's Commercial Siting Assessment Report, as required by this Chapter, will be provided to the local governmental subdivision. This request shall be made as soon as the permit application is deemed administratively complete and shall allow local government 180 days to provide the Infrastructure Assessment Report. Any revisions made to the "Commercial Siting Assessment Report" by the permit applicant during the technical review process shall be forwarded to the appropriate local governmental representative. The administrative authority may allow local government additional time to submit the report if a written request, which provides justification for the extension, is received prior to the 180 day deadline; however, in no case shall an extension be granted that extends beyond the date of the evidentiary hearing.

C. The Infrastructure Assessment Report may propose alternate siting for the facility and propose actions to mitigate any infrastructure deficiencies found by the report.

D. Any Infrastructure Assessment Report prepared by the local governmental subdivision shall be submitted prior to the evidentiary hearing held in accordance with LAC 33:V.709. The department may request additional supporting information from the local governmental subdivision or permit applicant before using the report for the secretary's assessment of the suitability of the proposed commercial hazardous waste TSD site.

E. The secretary may reimburse the local governmental subdivision for reasonable and necessary costs of preparation of the Infrastructure Assessment Report, provided the reimbursement request is made in writing and supported with documentation of report preparation costs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2178 and R.S. 30:2182.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division LR 26.

' 409. Departmental Action on Commercial Hazardous Waste TSD Permit Applications

A. The secretary's report shall be issued in conjunction with the draft permit decision for commercial hazardous waste treatment, storage, or disposal facilities. The report will assess the impact of the location of the facility on the citizens in the surrounding area, the local infrastructure, economic development, and on the environment. The sources of information for

the report include the permit application contents required in LAC 33:V, the Infrastructure Assessment Report prepared by the local governmental subdivision, and other information sources as appropriate.

B. Based upon information supplied in the permit application and other information sources, as appropriate, the department shall assess site suitability. Consideration shall be given to the following:

1. the number and density of existing hazardous waste disposal facilities in an area extending two miles from the facility property line;
2. the number and density of solid waste disposal facilities in an area extending two miles from the facility property line;
3. the number and density of inactive and abandoned hazardous waste sites in an area extending two miles from the facility property line;
4. the number and density of existing industrial facilities that discharge hazardous or toxic substances into the air or water in an area extending two miles from the facility property line;
5. the existence of any community health problem in the area that may be aggravated by the operation of a commercial hazardous waste disposal facility;
6. the negative impact of the proposed facility on economic development of the area by adjacent businesses or industries;
7. whether the area is environmentally sensitive (see LAC 33:V.405.B.1.a); and
8. whether the proximity of the facility may pose undue health risks (see LAC 33.V.405.B.1.b).

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Chapter 5. Permit Application Contents

Subchapter D. Part II General Permit Information Requirements

§517. Part II Information Requirements (the Formal Permit Application)

The formal permit application information requirements presented in this Section reflect the standards promulgated in LAC 33:V.Subpart 1. These information requirements are necessary in order to determine compliance with all standards. Responses and exhibits shall be numbered sequentially according to the technical standards. The permit application must describe how the facility will comply with each of the sections of LAC 33:V.Chapters 15-37 and 41. Information required in the formal permit application shall be submitted to the administrative authority and signed in accordance with requirements in LAC 33:V.509. The description must include appropriate design information (calculations, drawings, specifications, data, etc.) and administrative details (plans, flow charts, decision trees, manpower projections, operating instructions, etc.) to permit the administrative authority to determine the adequacy of the hazardous waste permit application. Certain technical data, such as design drawings, specifications, and engineering studies, shall be certified by a Louisiana registered professional engineer. If a section does not apply, the permit application must state it does not apply and why it does not apply. This information is to be submitted using the same numbering system and in the same order used in these regulations:

* * *

[See Prior Text in A –B.4]

5. surrounding land uses (residential, commercial, agricultural, recreational, public) such as schools, day care centers, hospitals, nursing homes, prisons, libraries, etc.;

[Comment: A map or aerial photograph showing surrounding land use for the area within two miles of the site is required.]

* * *

[See Prior Text in B.6 - T.6]

a. map or aerial photograph showing all buildings identified as residential, commercial, industrial, or public (schools, day care centers, hospitals, nursing homes, prisons, libraries, etc.);

* * *

[See Prior Text in T.6.b -W]

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Title 33 ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

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Chapter 51. Fee Schedules

§5111. Calculation of Application Fees

A. The applicant is required to calculate ~~his~~ the appropriate application fee, ~~and~~ research and development fee, and if applicable, siting fee according to the schedule included in the permit application form. Payment of this fee must be attached to the application.

* * *

[See Prior Text in B - D]

E. Siting Fee. This fee will be applicable to new commercial hazardous waste treatment, storage, and disposal facilities. This fee will be used to assess the impact of the location of the facility on the citizens in the surrounding area, the local infrastructure, and on the environment. A portion of this fee shall be allocated to the local governmental subdivision for the preparation of an infrastructure assessment report as determined by the secretary. When siting a commercial facility, the secretary shall determine whether the local governmental subdivision should be compensated for any reasonable and necessary cost for preparation of the infrastructure report:

Application Fee x 0.05 = Siting Fee

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014 et seq and 2178.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 11:533 (May 1985), LR 12:318 (May 1986), LR 12:676 (October 1986), LR 13:433 (August 1987), LR 18:724 (July 1992), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:**.